



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
915 WILSHIRE BOULEVARD, SUITE 930
LOS ANGELES, CALIFORNIA 90017

May 13, 2014

Office of the Commander
and District Engineer

Mr. Rod Pace
President/Chief Executive Officer
Rosemont Copper Company
PO Box 35130
Tucson, Arizona 85740

Dear Mr. Pace:

This letter concerns your Clean Water Act section 404 permit application associated with the proposed Rosemont Open Pit Copper Mine project (project) located in the Santa Rita Mountains, southeast of Tucson, Pima County, Arizona. In my letter to you dated February 28, 2014, I indicated that by April 15, 2014 I would notify the United States Forest Service ("USFS") of my determination whether adequate compensatory mitigation exists to offset the unavoidable impacts to aquatic resources that would occur associated with discharges of dredged or fill material as part of your proposed project. I subsequently postponed my target date for notification to the USFS to April 30, 2014, to give you the opportunity to comment on my staff's analysis of your draft mitigation plan.

Upon review of your final mitigation plan comprised of the *Rosemont Copper Project Habitat Mitigation and Monitoring Plan* and the *Rosemont Copper Project CWA section 404 Permit Management and Monitoring Program Cost Estimates, Financial Assurance Mechanisms, and Protection Instruments*, both dated April 1, 2014, the *Rosemont Copper Project April 2014 HMMP Supplemental Information* document dated April 8, 2014 and the *Response to Comments Rosemont Copper Project Habitat Mitigation and Monitoring Plan Summary* addendum dated April 24, 2014, I have determined that the proposed compensatory mitigation would not fully compensate for the unavoidable adverse impacts that would remain after all appropriate and practicable avoidance and minimization measures have been achieved. Our review of your proposed compensatory mitigation is a judgment call based on the Corps of Engineers and Environmental Protection Agency Joint Mitigation Rule (33 CFR Part 332 and 40 CFR Part 230) and informed by use of our regional compensatory mitigation ratio setting checklist. The checklist is a tool, but in itself, is not the sole basis of my determination. The shortfall in compensation derives from an assessment of the risks to success associated with your proposed compensatory mitigation, limited environmental lift from the compensatory mitigation, and the limited amount of restoration and enhancement of actual waters of the United States.

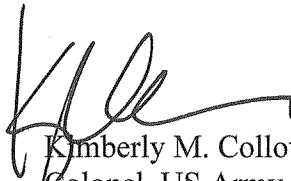
My determination is to assist the USFS in their decision making process for your proposed project. This determination is not dispositive of a decision yet to be made on whether to issue or

deny your permit application. I will determine in accordance with the record and applicable regulations whether or not the permit should be issued. The record of decision will include my views on the probable effect of the proposed work on the public interest including conformity with the guidelines published for the discharge of dredged or fill material into waters of the United States (40 C.F.R. part 230), and my conclusions.

My staff has worked very intensively with your team to provide advice on options and techniques to provide compensatory mitigation for impacts to aquatic resources from your proposed permit application. We have met with your team weekly for over a year and frequently throughout the multi-year federal environmental review process. Most of these discussions have focused on providing your team advice and suggestions related to compensatory mitigation. I have decided it is time to move forward with decision making. Because my agency has worked closely with USFS, the lead federal agency, it remains my goal to conclude the permit application evaluation process in a time frame that is concurrent with the USFS's decision making process. For the reasons addressed above, I have decided that my staff should now change its focus toward preparing a final permit decision.

I received your letter of May 2, 2014, requesting more opportunity to meet and discuss my determination on adequacy of your proposed compensatory mitigation. Our project manager, Ms. Marjorie Blaine is scheduled to meet with your team on May 21, 2014 to provide more detail on my determination. If you have any questions or wish to discuss this matter further, please have your staff contact Mr. David Castanon, Chief of our Regulatory Division, at (213) 452-3406, or via email at David.J.Castanon@usace.army.mil.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Colloton', with a stylized flourish extending to the right.

Kimberly M. Colloton, PMP
Colonel, US Army
Commander and District Engineer